

ing facts were, in his opinion, satisfactorily proved : That a sale was made by the trustee, on the day above mentioned ; that the prices given, were at the time, fair and reasonable ; that it was public, in the presence of a considerable number of bidders ; that there was competition between them ; that the purchase money had been paid to the trustee, or settled for ; and that the purchasers of those claiming under them, had been in possession of the property for a long time, and had made improvements thereon to some extent. There was no proof of such an agreement between the trustee and the purchasers as, if it had been an ordinary sale, would have taken it out of the statute of frauds.]

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THE CHANCELLOR :

It is the well understood law of this state, that in sales made under the authority of decrees in chancery, the court is the vendor, the trustee being the mere agent or attorney of the court, under a special delegated authority. *Andrews vs. Scotton*, 2 *Bland*, 629. And the true character of such a sale is, that it is a transaction between the court and the purchaser, and a private sale as well as a public sale may be made, if the court deem it advantageous. And after setting aside the sale reported by the trustee, as formally irregular, the court may revive the terms of the contract with the same purchaser, if no other objections existed, and those terms are deemed advantageous to the parties, who are in court prepared to protect their interests. Such is the language of the Court of Appeals in *Glenn vs. Clapp*, 11 *G. & J.*, 8, 9.

Regarding the trustee as the agent of the court in making the sale, it would seem to follow necessarily, that though he may depart from the special directions of his principal, and thus exonerate the latter from the obligation to confirm his act, yet, if he thinks proper to do so, the act of the agent will be as binding as if he had pursued, in all respects, those directions. A subsequent ratification of the act having the same effect, as a previous authority.

The court, it is true, must take care, in confirming the acts of its agents who have not followed the directions given them,